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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/592,148	06/12/2000	Tae Joon Park	0465-1990PUS1	5121

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BIRCH STEWART KOLASCH & BIRCH  
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EXAMINER
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SHERR, CRISTINA O

ART UNIT	PAPER NUMBER
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3685

NOTIFICATION DATE	DELIVERY MODE
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09/28/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 09/592,148	<b>Applicant(s)</b> PARK, TAE JOON	
	<b>Examiner</b> CRISTINA SHERR	<b>Art Unit</b> 3685	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2011 and 26 July 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 5) ☒ Claim(s) 141-143, 145-150, 152, 154 and 155 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 141-143, 145-150, 152, 154 and 155 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>February 4, 2011, March 9, 2011, April 15, 2011,</u>          | 6) <input type="checkbox"/> Other: ____.                          |

July 29, 2011, and August 5, 2011

### **DETAILED ACTION**

1. This Office Action is in response to applicant's Amendment filed June 15, 2011, and Supplemental Amendment filed July 26, 2011. Claims 141-143, 145-150, 152, 154 and 155 are pending in the present application. Claims 150, 152, and 154 are currently amended.

#### ***Information Disclosure Statement***

2. The information disclosure statements (IDS) submitted on February 4, 2011, March 9, 2011, April 15, 2011, July 29, 2011, and August 5, 2011 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

#### ***Response to Arguments***

3. Applicant's arguments, see **REMARKS**, filed June 15, 2011, with respect to the Section 112 first paragraph rejection of the claims, as currently amended, have been fully considered and are persuasive. The Section 112 first paragraph rejection of the claims, as currently amended, has been withdrawn.

4. Applicant's arguments, see **REMARKS**, filed June 15, 2011, with respect to the Section 112 second paragraph rejection of the claims, as currently amended, have been fully considered and are persuasive. The Section 112 second paragraph rejection of the claims, as currently amended, has been withdrawn.

5. Applicant's arguments filed June 15, 2011, and regarding Section 103 rejections of the claims, as currently amended, have been fully considered but they are not persuasive.

6. Applicant argues, regarding claims 141 and 150, that nothing in the cited references teaches, Discloses or suggests “receiving digital data including a plurality of transport packets having a header and a scrambled data unit; detecting a header of a first transport packet included in the plurality of transport packets; extracting a marker from the header of the first transport packet; extracting first control data from the extracted marker”.

7. Examiner respectfully disagrees.

8. Roth discloses receiving digital data including a plurality of transport packets e.g. fig. 2; detecting a header of a first transport packet included in the plurality of transport packets; col 1:57-60

extracting a marker from the header of the first transport packet; col 1:57-60; col 2:36-47, 55-57; col 3:2-4, 30-38;

extracting first control data from the extracted marker; (col 3:66-4:6; col 4:15-20)

9. Bourel discloses a plurality of transport packets having a header and a scrambled data unit; (col 5 ln 46-col 6 ln 5).

10. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Roth to include detecting the control data based on a signal associated with the position of the control data within the first sub data unit as disclosed in Bourel in order to allow for the use of a single control word for both an audio and video signal.

***Remarks***

**11.** A recitation directed to the manner in which a claimed apparatus is intended to be used does not distinguish the claimed apparatus from the prior art. MPEP 2114 and *Ex parte Masham*, 2 USPQ2d 1647 (1987).

**12.** In this case, regarding claims 150, 152, and 154, the several “wherein” recitations, do not serve to distinguish the claims from the prior art.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**13.** Claims 150, 152, and 154-155 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**14.** An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed. *In re Zletz*, 13 USPQ2d 1320 (Fed. Cir. 1989).

**15.** In this case, claim 150, as currently amended, it is unclear what the language “when executed” is referring to, “the data area”, “the data blocks”, or the “executable instructions”. For these reasons, independent claim 150 and its dependent claims 152, and 154-155 are rejected under 35 U.S.C. 112, second paragraph

***Claim Rejections - 35 USC § 102***

**16.** The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

17. Claims 150, 152, and 154-155, as newly amended, are rejected under 35 U.S.C. 102(b) as being anticipated by Carlson (US 4,420,829).

18. Carlson discloses a medium storing executable code for use by a processor of a computer. (col 19 ln 50-col 20 ln 35). In the instant application, the body of claim 150 comprises a “data area”, and which “when executed” only causes and apparatus “to use”. Therefore, claim 150, as currently amended, is directed to a memory storing executable code.

19. As currently recited, claims 150, 152, and 154-155 recite code, which, as claimed is not functionally related from the medium, and thus does not further distinguish claims 150, 152, and 154-155 from the cited prior art. *In re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Ngai*, 70 USPQ2d (Fed. Cir. 2004), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.01 II

### ***Claim Rejections - 35 USC § 103***

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claims 141-143, 145-146, 150, 152, and 154 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (US 5,243,650) in view of Bourel (US 5,530,756).

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22. Regarding claims 141 and 150 -

23. Roth discloses an apparatus for processing digital data, the apparatus comprising:

a processor and a memory connected to the processor and including executable instructions that when executed by the processor, (e.g. fig. 2; col 1:57-60; col 2:36-47, 55-57; col 3:2-4, 30-38; col 3:66-4:6; col 4:15-20)

cause the processor to perform:

receiving digital data including a plurality of transport packets e.g. fig. 2; detecting a header of a first transport packet included in the plurality of transport packets; (col 1:57-60)

extracting a marker from the header of the first transport packet; (col 1:57-60; col 2:36-47, 55-57; col 3:2-4, 30-38);

extracting first control data from the extracted marker; (col 3:66-4:6; col 4:15-20)

determining a number of transport packets that have been processed, and when the processor determines the number of transport packets is a minimum of a multiple of four transport packets, the executable instructions further cause the processor to perform detecting the header of a next transport packet included in the plurality of transport packets; extracting a marker from the header of the next transport packet; extracting second control data from the extracted marker (e.g. fig 4; col 3:30-38; col 4:15-29).

24. Roth does not disclose a plurality of transport packets having a header and a scrambled data unit.

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25. Bourel discloses a plurality of transport packets having a header and a scrambled data unit; (col 5 ln 46-col 6 ln 5).

26. Roth does not disclose wherein the same descrambler is used to descramble both the scrambled digital video data and the scrambled digital audio data; and a controller, operatively coupled to the descrambler, to control the descrambling operation by the descrambler. Bourel, however, does, at col 5 ln 46-63.

27. Roth does not disclose wherein each of the one or more scrambled data units and the one or more succeeding data units including scrambled digital video data or scrambled digital audio data. Bourel, however, does at col 4 ln 14-25.

28. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Roth to include detecting the control data based on a signal associated with the position of the control data within the first sub data unit as disclosed in Bourel in order to allow for the use of a single control word for both an audio and video signal.

29. Regarding claim 142 –

30. Roth discloses initializing the descrambler using the first and second control data for performing the descrambling operation. (col 3:66-4:29).

31. Regarding claims 143 and 152 –

32. Roth does not specifically disclose wherein the descrambler is configured to descramble each scrambled data unit: except for the header: in each of the plurality of data blocks.



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33. Bourel, however, does disclose wherein the descrambler is configured to descramble each scrambled data unit: except for the header: in each of the plurality of data blocks. (e.g. col 5 ln 46- col 6 ln 5).

34. Regarding claims 145 and 154 –

35. Roth does not specifically disclose wherein at least two of the scrambled data units and the header including the control data comprise one data group, the header including the control data, and wherein the apparatus further comprises a demultiplexer to separate the at least two scrambled data units and the header from one data group before the descrambling. Bourel, however, does. (e.g. col 5 ln 46- col 6 ln 5).

36. Regarding claim 146 –

37. Bourel discloses wherein the data group includes at least two packets, at least the first packet including one data unit and the header, and wherein the executable instructions further cause the processor to perform demultiplexing the at least two packets from one data group. (e.g. col 5 ln 63- col 6 ln 5).

38. Claims 147-149, and 155 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (US 5,243,650) in view of Bourel (US 5,530,756), further in view of Kanota et al (US 5,418,853).

39. Roth and Bourel disclose a discussed above.

40. Regarding claims 147, 148, and 155 –

41. Roth and Bourel do not disclose copy prevention information, the copy prevention information including one of current generation information and allowable generation information, the current generation information indicating a number of times

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the digital data has been copied and the allowable generation information indicating a number of permitted copies of the digital data, and wherein the method further comprises: performing a copy prevention function such that copying of digital data is not permitted if the copy prevention information indicates that copying of digital data is not permitted. Kanota, however, does, at fig 2; col 4 ln 61-col 5 ln 14.

42. It would have been obvious to one of ordinary skill in the art to combine Bourel, Roth and Kanota in order to include detecting the control data based on a signal associated with the position of the control data within the first sub data unit as disclosed in Bourel in order to allow for the use of a single control word for both an audio and video signal when the signal are not synchronized and further to combine with Kanota since the encryption of software or digital data in Roth is equivalent to copy control as in Kanota.

43. Regarding claim 149 –

44. Roth and Bourel do not disclose wherein the descrambling step is performed only if the copy prevention information indicates that copying of digital data is permitted.

45. Kanota, however, does, at, e.g., col 5 ln 1-15.

### ***Conclusion***

46. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

47. Walker et al (US 5,054,064) disclose a video control system for recorded programs.

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48. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

49. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

50. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CRISTINA SHERR whose telephone number is (571)272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

51. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin L. Hewitt, II can be reached on (571)272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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52. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CRISTINA OWEN SHERR  
Examiner  
Art Unit 3685

/CALVIN L HEWITT II/  
Supervisory Patent Examiner, Art Unit 3685